

Panaji, 9th October, 2014 (Asvina 17, 1936)

SERIES II No. 28

OFFICIAL GAZETTE



GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

Note:- There is one Extraordinary issue to the Official Gazette, Series II No. 27 dated 4-10-2014 namely, Extraordinary dated 4-10-2014 from pages 621 to 622 regarding Notification from Goa Legislature Secretariat.

GOVERNMENT OF GOA

Department of Animal Husbandry

Directorate of Animal Husbandry & Veterinary Services

Addendum

No. 2/13/95-AH (part)/2014-15/3302

Read: Order No. 2/13/95-AH (Part)/4741 dated 15-11-2013.

Consequent to having obtained post-facto concurrence from the GPSC the following para shall be added to the above referred order:-

“This issues with the approval of Goa Public Service Commission as conveyed vide their letter No. COM/II/11/3(2)/2014/881 dated 19-08-2014”.

By order and in the name of the Governor of Goa.

Dr. B. Braganza, Director & ex officio Joint Secretary (AH).

Panaji, 23rd September, 2014.

Addendum

No. 2/13/95-AH (part)/2014-15/3303

Read: Order No. 2/13/95-AH (Part)/1313 dated 10-06-2013.

Consequent to having obtained post-facto concurrence from the GPSC the following para shall be added to the above referred order:-

“This issues with the approval of Goa Public Service Commission as conveyed vide their letter No. COM/II/11/3(2)/2014/881 dated 19-08-2014”.

By order and in the name of the Governor of Goa.

Dr. B. Braganza, Director & ex officio Joint Secretary (AH).

Panaji, 24th September, 2014.

Addendum

No. 2/13/95-AH (part)/2014-15/3304

Read: Order No. 2/13/95-AH (part)/2013-14/6150 dated 03-02-2014.

Consequent to having obtained post-facto concurrence from the GPSC the following para shall be added to the above referred order:-

“This issues with the approval of Goa Public Service Commission as conveyed vide their letter No. COM/II/11/3(2)/2014/881 dated 19-08-2014”.

By order and in the name of the Governor of Goa.

Dr. B. Braganza, Director & ex officio Joint Secretary (AH).

Panaji, 24th September, 2014.

Department of Education, Art & Culture

Directorate of Higher Education

Order

No. 24/3/2014-DHE/2402

It is hereby informed to all concerned and the general public that the name of the Government College of Arts and Commerce, Pernem stands changed to read as “Sant Sohirobanath Ambiyé

Government College of Arts and Commerce,
Virnoda, Pernem-Goa".

Vinayak R. Kurtikar, Under Secretary (Higher Education).

Povorim, 16th September, 2014.

Directorate of Technical Education
College Section

Order

No. 16/338/SPN/PF/DTE/2014/1976

Read: Memorandum No. 16/139/Fill-Posts/GEC/
/DTE/PEIV/1246 dated 31-07-2014.

On the recommendations of the Goa Public Service Commission conveyed vide their letter No. COM/I/5/18(7)/2013/642 dated 10-07-2014, Government is pleased to appoint Smt. Siddhi Pradeep Naik on temporary basis to the post of Assistant Professor in Information Technology (Group 'A', Gazetted) at Goa College of Engineering, Farmagudi, Ponda-Goa, with initial pay fixed at ` 15,600/- in the Pay Band of ` 15,600-39,100+ Academic Grade Pay of Rs. 6,000/-, w.e.f. the date of joining as per the terms and conditions contained in the Memorandum cited above.

The appointment is against the post of Assistant Professor in Information & Technology created vide order No. 16/250/Creation & Revival of posts of GEC/DTE/10/2403 dated 12-07-2010 and subsequently revived vide order No. 16/250/Creation & Revival of posts of GEC/DTE/10/756 dated 18-06-2013 (Non Plan-Second post at Sr. No. 19).

Smt. Siddhi Pradeep Naik will be on probation for a period of two years.

She should join duties within 30 days of the receipt of this order, failing which this order is liable to be cancelled without further notice.

She has been declared fit by Medical Board, Goa Medical College & Hospital, Bambolim vide letter No. 4/105/85/H/GMC/2014/346 dated 18-08-2014. Her character and antecedents have been verified and nothing adverse is reported against her as conveyed by the Additional District Magistrate, North Goa, Panaji vide letter No. 2/6/2013-MAG/VCA/2400 dated 17-09-2014.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Additional Secretary (Technical Education).

Porvorim, 22nd September, 2014.

Order

No. 16/336/DMR/PF/DTE/2014/1977

Read: Memorandum No. 16/139/Fill-Posts/GEC/
/DTE/PEIV/1241 dated 31-07-2014.

On the recommendations of the Goa Public Service Commission conveyed vide their letter No. COM/I/5/18(7)/2013/642 dated 10-07-2014, Government is pleased to appoint Smt. Deepali Madhukar Raikar on temporary basis to the post of Assistant Professor in Information Technology (Group 'A', Gazetted) at Goa College of Engineering, Farmagudi, Ponda-Goa, with initial pay fixed at ` 15,600/- in the Pay Band of ` 15,600-39,100+ Academic Grade Pay of Rs. 6,000/-, w.e.f. the date of joining as per the terms and conditions contained in the Memorandum cited above.

The appointment is against the post of Assistant Professor in Information & Technology created vide order No. 16/250/Creation & Revival of posts of GEC/DTE/10/2403 dated 12-07-2010 and subsequently revived vide order No. 16/250/Creation & Revival of posts of GEC/DTE/10/756 dated 18-06-2013 (Non Plan-Fourth post at Sr. No. 19).

Smt. Deepali Madhukar Raikar will be on probation for a period of two years.

She should join duties within 30 days of the receipt of this order, failing which this order is liable to be cancelled without further notice.

She has been declared fit by Medical Board, Goa Medical College & Hospital, Bambolim vide letter No. 4/105/85/H/GMC/2014/346 dated 18-08-2014. Her character and antecedents have been verified and nothing adverse is reported against her as conveyed by the Additional District Magistrate, North Goa, Panaji vide letter No. 2/6/2013-MAG/VCA/2400 dated 17-09-2014.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Additional Secretary (Technical Education).

Porvorim, 22nd September, 2014.

Order

No. 16/352/UGS/PF/DTE/2014/1978

Read: Memorandum No. 16/228/RP/GEC/DTE/
/11/PF-I/1872 dated 12-09-2014.

On the recommendations of the Goa Public Service Commission conveyed vide their letter No. COM/I/5/18(2)/2013/702 dated 26-08-2014,

Government is pleased to appoint Dr. Ulhas Ganapati Sawaiker on temporary basis to the post of Professor in Civil Engineering (Group 'A', Gazetted) at Goa College of Engineering, Farmagudi, with initial pay fixed at ` 43,000/- in the Pay Band of ` 37,400-67,000+ Academic Grade Pay of Rs. 10,000/-, w.e.f. the date of joining as per the terms and conditions contained in the Memorandum cited above.

The appointment is against the post created vide order No. 16-35-86-EDN/9381 dated 18-12-1987 and revived vide order No. 16/250/Creation & Revival of posts of GEC/DTE/10/2405 dated 12-07-2010 and subsequently revived vide order 16/250/Creation & Revival of Posts of GEC/DTE/10/756 dated 18-06-2013 (Plan-First Post at Sr. No. 1).

Dr. Ulhas Ganapati Sawaiker will be on probation for a period of two years.

He should join duties within 30 days of the receipt of this order, failing which this order is liable to be cancelled without further notice.

He has been declared fit by Medical Board, Goa Medical College & Hospital, Bambolim and his character and antecedents have been verified and nothing adverse is reported against him during his selection as Lecturer in Civil Engineering, Government Polytechnic, Bicholim as per the Order No. 25/3/96/EDN/(Col)/4526 dated 05-12-1996.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Additional Secretary (Technical Education).

Porvorim, 22nd September, 2014.

Order

No. 16/332/SSU/PF/DTE/2014/1979

Read: Memorandum No. 16/139/Fill-Posts/GEC/DTE/PFIV/1242 dated 31-07-2014.

On the recommendations of the Goa Public Service Commission conveyed vide their letter No. COM/I/5/18(7)/2013/642 dated 10-07-2014, Government is pleased to appoint Smt. Soniya Shakil Usgaonkar on temporary basis to the post of Assistant Professor in Information Technology (Group 'A', Gazetted) at Goa College of Engineering, Farmagudi, Ponda-Goa, with initial pay fixed at ` 15,600/- in the Pay Band of ` 15,600-39,100+ Academic Grade Pay of Rs. 6,000/-, w.e.f. the date of joining as per the terms and conditions contained in the Memorandum cited above.

The appointment is against the post of Assistant Professor in Information & Technology created vide order No. 16/250/Creation & Revival of posts of GEC/DTE/10/2403 dated 12-07-2010 and subsequently revived vide order No. 16/250/Creation & Revival of posts of GEC/DTE/10/756 dated 18-06-2013 (Non Plan-Third post at Sr. No. 19).

Smt. Soniya Shakil Usgaonkar will be on probation for a period of two years.

She should join duties within 30 days of the receipt of this order, failing which this order is liable to be cancelled without further notice.

She has been declared fit by Medical Board, Goa Medical College & Hospital, Bambolim vide letter No. 4/105/85/H/GMC/2014/334 dated 09-08-2014. Her character and antecedents have been verified and nothing adverse is reported against her as conveyed by the Additional District Magistrate, North Goa, Panaji vide letter No. 2/6/2013-MAG/VCA/2400 dated 17-09-2014.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Additional Secretary (Technical Education).

Porvorim, 22nd September, 2014.

Order

No. 16/334/AAS/PF/DTE/2014/1981

Read: Memorandum No. 16/139/Fill-Posts/GEC/DTE/PFIV/1237 dated 31-07-2014.

On the recommendations of the Goa Public Service Commission conveyed vide their letter No. COM/I/5/18(7)/2013/642 dated 10-07-2014, Government is pleased to appoint Shri Amogh Ajit Sanzgiri on temporary basis to the post of Assistant Professor in Information Technology (Group 'A', Gazetted) at Goa College of Engineering, Farmagudi, Ponda-Goa, with initial pay fixed at ` 15,600/- in the Pay Band of ` 15,600-39,100+ Academic Grade Pay of Rs. 6,000/-, w.e.f. the date of joining as per the terms and conditions contained in the Memorandum cited above.

The appointment is against the post of Assistant Professor in Information & Technology created vide order No. 16/250/Creation & Revival of posts of GEC/DTE/10/2403 dated 12-07-2010 and subsequently revived vide order No. 16/250/Creation & Revival of posts of GEC/DTE/10/756 dated 18-06-2013 (Non Plan-Second post at Sr. No. 19).

Shri Amogh Ajit Sanzgiri will be probation for a period of two years.

He should join duties within 30 days of the receipt of this order, failing which this order is liable to be cancelled without further notice.

He has been declared fit by Medical Board, Goa Medical College & Hospital, Bambolim vide letter No. 4/105/85/H/GMC/2014/346 dated 18-08-2014. His character and antecedents have been verified and nothing adverse is reported against him as conveyed by the Additional District Magistrate, North Goa, Panaji vide letter No. 2/6/2013-MAG/VCA/2400 dated 17-09-2014.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Additional Secretary (Technical Education).

Porvorim, 22nd September, 2014.

◆
Polytechnic Section
Order

No. 17/3/19/2008/DTE/1877

Approval of the Government is hereby conveyed for acceptance of Notice of Voluntary Retirement under Rule 48(A)(1) of CCS (Pension Rules) 1972 with immediate effect in respect of Shri Socorro J. I. Mota, Lecturer in Fabrication (Mechanical Department), Government Polytechnic, Panaji.

Shri Socorro J. I. Mota may be relieved from his duties with immediate effect from the post of Lecturer in Fabrication (Mechanical Department), Government Polytechnic, Panaji.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Additional Secretary (Technical Education).

Porvorim, 12th September, 2014.

◆◆◆
Goa Human Rights Commission

Proceeding No. 83/2013

Proceeding No. 210/2013

Inquiry Report

By this common order, we propose to dispose of both the proceedings mentioned above as they are interlinked and are essentially between the same Parties.

2. Proceeding No. 83/2013 relates to non-payment of salaries of six ECG technicians of Goa Medical College and Hospital, Bambolim for the period from 01-03-2013 to 11-07-2013 and proceeding No. 210/2013 relates to non-payment of Subsistence Allowance for the period from 14-06-2013 to 30-09-2013 in respect of very same employees, namely 1) Shri Fidelis Rafael Fernandes, 2) Shri Vivek Morajkar, 3) Smt. Vinda Gaonkar, 4) Shri Tushar Rane, 5) Shri Audhoor Madkaikar and 6) Smt. Shoba Naik.

3. On behalf of the above mentioned employees, Goa Government Employees' Association approached this Commission alleging that non-payment of salaries and non-payment of Subsistence Allowance amounts to gross violation of human rights of the said employees. In proceedings No. 83/2013, this Commission issued notices to 1) The Dean, Goa Medical College, Bambolim, 2) Secretary (Health), Secretariat, Porvorim and 3) The State of Goa through the Chief Secretary, Secretariat, Porvorim-Goa and in proceeding No. 210/2013, this Commission issued notice to the Dean, Goa Medical College, Bambolim. In pursuance to the notices, the Respondent No. 1 filed reply dated 13-09-2013 (proceeding No. 83/2013). The Respondent No. 2 and 3 filed a joint reply dated 31-10-2013. In proceeding No. 210/2013 the Respondent filed reply dated 07-11-2013.

4. As far as non-payment of salary is concerned, the Respondent No. 1 has taken a stand that the ECG technicians were not following the time-table given to them by the head of the Department of Medicine, Dr. Edwin Gomes and were following old time-table. It is stated that the Head of the Department of Medicine brought to the notice of the Director (Administration) that the ECG technicians were following the time-table by which they were working for less hours than required as per the Rules. Therefore, oral directions were given to the Head of Department of Medicine to change the Duty Chart and implement the same. However, the ECG technicians refused to follow the new modified Duty Chart given by HOD and continued their duty as per the old time-table. Therefore, the Dean, Goa Medical College issued Circular dated 27-11-2012 directing ECG technicians to strictly follow the modified time-table prepared by HOD. It is further stated that the ECG technicians continued defying Head of Department (Medicine) as well as the directions of the Director (Admn.). Therefore, Head of Department (Medicine) refused to sign the

Effective Report of the ECG technicians. However, the Accounts Section paid the salary of technicians till February, 2013. It was at that time and in view of non-availability of Effective Report from Head of Department (Medicine) a note dated 13-03-2013 was moved to stop crediting salary of the employees till orders of superiors were obeyed and proper time-table was followed by them. It is further stated that another Memorandum was issued on 16-05-2013 again directing the employees to follow the revised time-table wherein it was clearly mentioned by the Director (Admn.) that payment of salary without Effective Report and non-adherence to revised Duty Chart is not possible. It is also stated that since the employees did not obey the directions given to them, it was decided to take legal action against the erring employees and disciplinary proceedings were contemplated against them and the said employees were placed under suspension.

5. The Respondents No. 2 and 3 in their reply have stated that the proceedings have been mis-directed against these Respondents as they have no role to play in this case and the allegations made therein pertain to Dean of Goa Medical College and Hospital and these Respondents cannot be made liable or responsible for the acts which are not within the control of knowledge of these Respondents. It is also stated by these Respondents that the aggrieved persons never approached them with any grievance and hence there is no reason even to allege any violation of human rights by them.

6. In so far as Subsistence Allowance is concerned the Respondent/Dean, Goa Medical College has stated that the suspended employees submitted their non-employment certificates at the entry Section of the Office of the Dean without endorsement/approval of Head of Department of Medicine who is the Reporting Officer for the suspended employees. It is further stated that a note was moved to Head of Department, Department of Medicine by the Joint Director of Accounts for necessary approval who commented that he cannot comment on the said matter as none of the said staff had reported to his office to sign the roster during the period of suspension. It is further stated that on account of this fact, miscommunication had taken place as the suspended employees had furnished their non-employment certificates to the Dean's Office instead of Head of Department, Department of Medicine, Goa Medical College.

7. The Respondents also have taken a plea that this Commission has no jurisdiction to deal with this matter as the disputes raised by the Petitioners come within the purview of service matter.

8. We have gone through the complaints filed by Goa Government Employees' Association and the replies filed by the Respondents in the respective proceedings. We have also heard the Learned Adv. Shri Savio Soares on behalf of the Respondent.

9. It is contended on behalf of Respondents that the disputes raised by the petitioners come within the purview of service matter and therefore this Commission has no jurisdiction to deal with this matter. We do not find any force in this contention of the Respondents for the simple reason that we are not dealing with issue relating to legality of the order of non-payment of salaries and orders of suspension. The question for determination before this Commission is about the delay in payment of monthly salaries and Subsistence Allowance which is required to be paid by the Respondents to the suspended employees. There cannot be any doubt that unjustified delay in payment of salaries of the employees and delay in payment of Subsistence Allowance is an infringement of fundamental rights of any employee within the meaning of Article-21 of the Constitution of India and would thus amount to violation of Human Rights. Right to life as contemplated under Article-21 of the Constitution of India includes right to live with human dignity and decency. Therefore, it follows that the delay in payment of salaries which were admittedly due and the delay in payment of Subsistence Allowance to the suspended employees would amount to deprivation of right to live with human dignity and decency. As per Section 2(1) (d) "Human Rights" means the rights relating to life, liberty, equality and dignity of the individual granted by the Constitution or embodied in the International Covenants and enforceable by Courts in India. Now, even assuming but not admitting that the issues raised by the Petitioners fall within the purview of service matter, it is not expected of the State Government to contend that the affected employees should not have approached the Human Rights Commission. The Administrative Tribunal Act, 1986, which confers exclusive jurisdiction to the State Administrative Tribunal to deal with dispute relating to "service matter" is not applicable to the State of Goa. So far as

State Government Employees are concerned in as much as no such State Administrative Tribunal has been established. No doubt the aggrieved State Government Employees can approach a Civil Court or Hon'ble High Court for redressal of their grievances. However, in the back drop of the stark reality that the Civil Courts and the Hon'ble High Court are already heavily overburdened with numerous litigation, the hyper technical objection of the State can at best be described as cynical. Moreover, unlike in the Regulations of the National Human Rights Commission, in the Goa State Human Rights Commission Regulation, no absolute bar has been envisaged and it is provided that "ordinarily the State Commission may not entertain dispute relating to service matter." In the present proceedings there is no dispute whatsoever regarding the payability of salary and Subsistence Allowance and the only question is whether there was any justification in non-payment for considerable period. This contention relating to the jurisdiction of this Commission to deal with this matter is liable to be rejected. We are therefore positively convinced that non-payment of salaries in time and non-payment of Subsistence Allowance in time is in clear violation of human rights of the concerned employees.

10. In the case of O.P. Gupta v/s Union of India and Other (1987) 4 SCC 328 the Supreme Court observed as follows:—

"An order of suspension of Government servant does not put an end to his service under the Government. He continues to be a member of service inspite of order of suspension. The real effect of suspension as explained by this Court in Khem Chand v/s Union of India 1958 SCR 1080 (AIR 1958 SC 300) is that he continues to be a member of the Government service but is not permitted to work and further during the period of suspension he is paid only some allowance generally called- Subsistence Allowance which is normally less than the salary instead of the pay and allowance he would have been entitled to if he had not been suspended. There is no doubt that an order of suspension, unless, the departmental inquiry is concluded within reasonable time, affect a Government servant injuriously. The very expression "Subsistence Allowance" has an undeniable penal significance. The dictionary meaning of the word "Subsists" as given in the Shorter Oxford English Dictionary, Vol. II at P. 2171 is "to

remain alive as on food; to continue to exist". Subsistence means -means of supporting life, especially a minimum livelihood".

11. In case of Capt. M. Paul Anthony v/s Bharat Gold Mines Ltd., and Another the Supreme Court has observed as follows:-

"The act of non-payment of subsistence allowance can be likened to slow-poisoning as the employee, if not permitted to sustain himself on account of non-payment of subsistence allowance, would gradually starve himself to death." It is further observed **"On joining Govt. service a person does not mortgage or barter away his basic rights as a human being, including his fundamental rights, in favour of the Government.** The Government only because it has the power to appoint does not become the master of the body and soul of the employee. The Government by providing job opportunities to its citizens only fulfils its obligation under the Constitution, including Directive Principles of State Policy. The employee, on taking up an employment only agrees to subject himself to the regulatory measures concerning his service. His association with the Government or any other employer, like instrumentalities of the Government or Statutory or Autonomous Corporation etc., is regulated by the terms of contract of service or service Rules made by the Central or the State Government under the Proviso Article 309 of the Constitution or other Statutory Rules including Certified Standing Orders. **The Fundamental Rights, including the right to life under Article 21 of the Constitution or basic human rights are not surrendered by the employee. The provision for payment of Subsistence Allowance made in the Service Rules only ensures non-violation of right to life of the employee.**

12. In the case of State of Maharashtra v/s Chanderbhan reported in AIR 1983 SC 803, the Supreme Court struck down a Service Rule which provided for payment of a nominal amount of Rupee one as a Subsistence Allowance to an employee placed under suspension."

13. In the case of Kapila Hingorani v/s State of Bihar reported in AIR 2005 S.C. 980 Supreme Court held **"Where employee of public Sector undertaking were not paid salaries for years and were starving and State bound to protect**

human rights and fundamental rights directed to deposit sum of Rupees 125.50 crores for payment of arrears of salaries”.

14. The contention of the Respondents No. 2 and 3 that they have no role to play in this case as the allegations made therein pertain to the Dean of Goa Medical College and Hospital and that these Respondents cannot be made liable or responsible for the acts which are not within the control or knowledge of these Respondents is also devoid of any merits. There cannot be two opinions that the State of Goa as an Employer is vicariously liable for the wrong acts of its employees. Therefore, it shall not be correct to hold that the Respondents No. 2 and 3 cannot be held liable or responsible for the acts committed by the Dean of Goa Medical College and Hospital.

15. Admittedly, the Respondent did not pay the monthly salaries to the said employees for a period 01-03-2013 to 11-07-2013 and also did not pay Subsistence Allowance to the suspended employees during the period of suspension in time. The justification given by the Respondents for the delay in payment of salaries to its employees and delay in payment of Subsistence Allowance to the suspended employees in time is not at all convincing and satisfactory. The Dean, Goa Medical College has taken a stand that the salary was withheld as the concerned employee defied the directions given by the Respondent to follow the revised time-table. We are not persuaded to accept this stand taken by the Respondent. In the event the employees had disobeyed the orders of the superiors, there was nothing to prevent the Head of the Department to initiate appropriate action against the erring employees. But then, it was certainly not open to the Head of the Department to stop payment of monthly salary to its employees on the ground of indiscipline or insubordination. This act of the Respondent to stop the salary smacks arbitrariness and high handedness.

16. The records reveal that Dr. Edwin Gomes, Head of Department (Medicine) is mainly instrumental for such high handedness. It appears that Dr. Edwin Gomes has misled the Dean, Goa Medical College and succeeded in stopping the salaries of the concerned employees which is against all the canons of principles of natural justice. Needless to say that non-payment of salary to the concerned employees is a clear infringement of Fundamental Rights of the employees. Article-21 of the

Constitution of India guarantees Right to Life which includes right to live with human dignity and decency.

17. It is also an admitted fact that the Respondent did not pay Subsistence Allowance to the suspended employees during the period of suspension in time. The justification given by the respondent for this delay in non-payment of Subsistence Allowance to the suspended employees in time does not appeal to our mind. There is no dispute that the suspended employees had submitted their non-employment certificates in the Office of Dean, Goa Medical College in time. The Respondent cannot take a stand that non-employment certificates were not produced before the Head of Department, Department of Medicine by the suspended employees. Once the non-employment certificates were produced in the Office of Dean, Goa Medical College, it was the duty of the Department to consider the said non-employment certificates and cannot make a lame excuse that the non-employment certificates were not submitted directly to Head of Department, Department of Medicine.

18. As per F.R. 53 of Fundamental Rules and Supplementary Rules, a Government Servant under suspension is entitled for Subsistence Allowance and other allowances from the date and during the period of suspension. The Subsistence Allowance shall not be denied on any ground unless Government Servant is unable to/or does not furnish a certificate that he is not engaged in any other employment, business, profession or vocation during the period of suspension.

19. The records of this case clearly indicate that initially the Dean, Goa Medical College and Hospital withheld the salaries of its employees for more than four months. Thereafter, the concerned employees were placed under suspension and as if to rub salt to the injury, the said employees were deprived of payment of Subsistence Allowance for more than two months. On the basis of the records, it can be safely inferred that the concerned employees were deprived of their lawful dues with malafide intention at the instance of Dr. Edwin Gomes, Head of Department of Medicine and they were made to suffer mental agony. This act of non-payment of salaries and non-payment of Subsistence Allowance in time deserves condemnation which we hereby do.

20. In view of the above discussions, we are satisfied that non-payment of salary in time and non-payment of Subsistence Allowance in time has grossly violated human rights of the concerned employees.

21. The Commission therefore makes the following recommendations:

The Dean, Goa Medical College/Respondents shall pay a sum of Rs. 5,000/- (Rupees five thousand only) as compensation to each of the concerned employees. The compensation shall be paid within a period of one month from the date of receipt of the recommendation by the Dean, Goa Medical College/Respondents. It is made clear that it would be open to Respondents to recover the said amount from the defaulting officials belonging to Goa Medical College, by initiating appropriate proceeding against such errant officials.

Action taken report shall be submitted by the Respondents before this Commission within 30 days.

Panaji, 29th April, 2013.

Sd/- (Justice P. K. Misra) Chairperson Goa Human Rights Commission	Sd/- (A. D. Salkar) Member Goa Human Rights Commission	Sd/- (J. A. Keny) Member Goa Human Rights Commission
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Before the Goa Human Rights Commission
at Panaji, Goa

Proceeding No. 83/2013/126

Shri M. L. Shetkar &
Shri John Nazareth,
President & General
Secretary Goa
Govt. Employees Association Petitioners
V/s

1. The Dean, Goa Medical College,
Bambolim-Goa
2. The Secretary (Health),
Secretariat, Porvorim-Goa
3. The Chief Secretary through
the State of Goa, Secretariat,
Panaji-Goa Respondents

COMPLIANCE REPORT

As per the recommendations of the Goa Human Rights Commission vide their report dated 29-04-2013, the compensation has been paid to the following employees:-

1. Shri Fideles Fernandes, E.C.G. Technician.
2. Shri Vivek Morajkar, E.C.G. Technician.
3. Kum. Vinda Gaonkar, E.C.G. Technician.
4. Shri Tushar Rane, E.C.G. Technician.
5. Smt. Shobha Naik, E.C.G. Technician.
6. Shri Avadhut Madkaikar, Laboratory Assistant.

Gurudas P. Pilarnekar, Director (Admn.), Goa Medical College.

Bambolim, 18th August, 2014.

Proceeding No. 224/2013

Mr. Ravikant Yadav,
s/o Dayanand Yadav
r/o H. No. 1657, Deulwada,
Anjuna-Goa.

v/s

1. Mr. Nilesh Rane,
Police Inspector
Calangute Police Station,
Calangute, Bardez-Goa
2. Mr. Vinod Naik,
Police Constable, Buckle No. 4468,
Calangute Police Station,
Calangute, Bardez-Goa

Order

Perused the Complaint dated 22-10-2013 of Shri Mr. Ravikant Yadav, s/o Dayanand Yadav, r/o.H. No. 1657, Deulwada, Anjuna-Goa.

2. Preliminary investigation has been done by Police Inspector Shri K. Podulval attached to this Commission.

3. The complaint and the preliminary Investigation Report, prima facie, disclose serious allegations against Calangute Police which requires thorough probe by Police Investigation Team headed by Police Officer of Rank of Inspector General of Police/Deputy Inspector General of Police.

4. The State Government has not provided an officer of rank of Inspector General of Police as required u/s 27(b) of the Protection of Human Rights Act, 1993. The State Government has not even provided Police Officer of the Rank of

Superintendent of Police inspite of several reminders. The Commission therefore is not able to investigate this matter in right perspective.

5. Keeping in mind the sensitivity and the seriousness of the allegations made against Calangute Police, we feel that this matter be investigated by an independent and responsible Investigation Agency such as Central Bureau of Investigation or State Anti Corruption Bureau. Therefore, we recommend that the State Government should refer the matter to the Central Bureau of Investigation or State Anti Corruption Bureau for Investigation.

6. A copy of this order alongwith the copy of complaint be forwarded to Secretary (Home), Government of Goa, Secretariat, Porvorim to comply with recommendations made by the Commission.

7. Action taken report or proposed to be taken shall be submitted by the State Government to this commission on 04-03-2014.

Sd/- (Justice P. K. Misra)	Sd/- (A. D. Salkar)	Sd/- (J. A. Keny)
Chairperson	Member	Member
Goa Human	Goa Human	Goa Human
Rights	Rights	Rights
Commission	Commission	Commission

Panaji, 24th December, 2013.

Before the Goa Human Rights Commission

Panaji-Goa

Proceeding No. 224/2013

Sub.:- Inquiry Report in Proceeding No. 224/2013.

May it please your Honour

The Goa Human Rights Commission vide its Order dated 24-12-2013 and subsequent Order dated 10-04-2014 in proceeding No. 224/2013 had directed to refer the investigation of the case to Anti Corruption Bureau.

In pursuance to the above order, this Department has transferred the complaint of the complainant vide order No. 1/153/2014-HD(G)/GHRC dated 08-05-2014 to Anti Corruption Bureau for further investigation and necessary action.

Neetal P. Amonkar, Under Secretary (Home).

Porvorim, 8th July, 2014.

Before the Goa State Human Rights
Commission

Proceeding No. 237/2013

Union of India,
through Secretary,
Ministry of Petroleum & Natural Gas,
Government of India,
Shastri Bhavan,
New Delhi 110 001.

Status Report

May it please this Hon'ble Commission

I. On receipt of the Inquiry Report dated 5th February, 2014 passed by the Hon'ble Commission in the above matter, the same has been examined by the Ministry and the Ministry responds to place on record Status Report in the matter as hereinunder:

- "1. The Ministry with great respect has noted that this Hon'ble Commission has not addressed the question whether the modalities relating to the grant of subsidy can be considered a Human Right, conferring jurisdiction upon the Goa State Human Rights Commission, which is a fundamental requirement for exercise of jurisdiction.
2. The Ministry noted with great respect that this Hon'ble Commission in its Inquiry Report has set out that the purpose of the Petition was to examine whether the Order passed by the Hon'ble Supreme Court was being complied with or not, which in the respectful view of the Ministry is wholly outside the scope and jurisdiction of a Human Rights Commission.
3. The Ministry states that without prejudice to the aforesaid, it will abide by the directions ultimately passed by the Hon'ble Supreme Court in the Petition pending before the Hon'ble Apex Court.
4. Furthermore, vide letter No. P-17018/7/2012-LPG dated 7th March, 2014, the Government of India has issued directions in relation to the Annual Cap on Subsidized Domestic LPG Cylinders & DBTL Scheme as under:
 - i) The cap on subsidized LPG Cylinders is revised to 11 for the year ending 31-3-2014.

- (ii) Each beneficiary will be entitled to 12 subsidized LPG cylinders per annum with the cap of one cylinder per month with effect from 01-04-2014. While ordinarily one cylinder be given to each beneficiary every month, in case of genuine difficulties, Oil Marketing Companies (OMCs) are authorised to provide more than one cylinder per month.
- (iii) The Government have also decided that an appropriate Committee be constituted review the functioning of the Direct Benefit Transfer for LPG Consumers (DBTL) scheme and give its report to the Ministry, for which Orders have been issued separately. In the meanwhile the DBTL Scheme is kept in abeyance in 291 DBTL districts till further orders and the system of providing subsidized cylinders to all domestic LPG consumers on payment of the applicable subsidised price for each such cylinder is to be re-introduced in all DBTL districts.
- (iv) The permanent advance already transferred through DBTL Scheme to the LPG consumers to be retained in their bank accounts till finalisation of the report by the Committee constituted to review the functioning of the system.

Copy of this letter dated 7-3-2014 is annexed hereto as **Annexure A**.

5. The Govt. has now set up a committee headed by Ex-Director, IIT Kanpur Prof. S. G. Dhande to review the functioning of the DBTL scheme and give its recommendations to the Ministry. The Committee will give its report to the Ministry. In the meanwhile, DBTL Scheme has been kept in abeyance till further orders in 291 DBTL districts where it was implemented and the system of providing subsidized cylinders to all domestic LPG consumers on payment of the applicable subsidized price for each such cylinder has been reintroduced in all the DBTL districts. Copies of OMs No. P-17018/7/2012-LPG (Pt) dated 28-2-2014 & 4-3-2014 are enclosed as **Annexure B (colly).**"

II. This Status Report is being filed with due approval of the Ministry.

Rajesh Kukreti, Under Secretary, Ministry of Petroleum & Natural Gas.

New Delhi, 4th April, 2014.

Annexure-A

P-17018/7/2012-LPG

Government of India

Ministry of Petroleum & Natural Gas

Shastri Bhawan, New Delhi

Dated: 7th March, 2014.

To
The Director (Marketing)
IOC/BPCL/HPCL
Mumbai.

Subject: Annual Cap on subsidized Domestic LPG Cylinders and DBTL Scheme.

Sir,

I am directed to convey the following decisions:

- i) The cap on subsidized LPG cylinders is revised to 11 for the year ending 31-3-2014.
- ii) Each beneficiary will be entitled to 12 subsidized LPG cylinders per annum with the cap of one cylinder per month with effect from 01-04-2014.

While ordinarily only one cylinder be given to each beneficiary every month, in case of genuine difficulties, Oil Marketing Companies (OMCs) are authorized to provide more than one cylinder per month.

- iii) The Government have also decided that an appropriate Committee be constituted to review the functioning of the Direct Benefit Transfer for LPG consumers (DBTL) Scheme and give its report to the Ministry for which orders have been issued separately. In the meanwhile the DBTL Scheme is kept in abeyance in 291 DBTL districts till further orders and the system of providing subsidized cylinders to all domestic LPG consumers on payment of the applicable subsidized price for each such cylinder is to be re-introduced in all the above DBTL districts.

iv) The permanent advance already transferred through DBTL Scheme to the LPG consumers be retained in their bank accounts till finalization of the report by the Committee constituted to review the functioning of the system.

2. This letter supersedes earlier letters of even number dated 28-2-2014 and letter No. P-23015/11/2012-LPG dated 30-1-2014.

3. An Action Taken Report in the matter may be sent to this Ministry urgently.

Yours faithfully,

Rajesh Kukreti, Under Secretary (LPG).

Annexure-B (Colly)

No. P-17018/7/2012-LPG

Ministry of Petroleum & Natural Gas
Government of India

Shastri Bhawan, New Delhi
28th February, 2014.

OFFICE MEMORANDUM

The Government have decided to set up a committee to review the functioning of the DBTL scheme keeping in view the difficulties experienced by the beneficiaries in the DBTL scheme. The Committee should consult the stakeholders of the scheme and submit its recommendations on improving the scheme design and implementation to MOPNG by 31-5-14. The Committee shall be serviced by Indian Oil Corporation Ltd. (IOCL) which will provide all the secretarial assistance, meeting arrangements, make travel/accommodation arrangements etc.

The composition of the Committee is as follows:

- i) Prof. S. G. Dhande, Chairman (Former Director, Indian Institute of Technology, Kanpur).
- ii) Mr. Anil Khandelwal (Former Chairman and Managing Director of Bank of Baroda).
- iii) Secretary, Deptt. of Financial Services or his nominee not below the rank of Joint Secretary.
- iv) Secretary, Deptt. of Expenditure or his nominee not below the rank of Joint Secretary.
- v) Mission Director, DBT or his nominee not below the rank of Joint Secretary.

vi) Director General of UIDAI or his representative not below the rank of Joint Secretary.

vii) Director General of NIC or his representative not below the rank of Joint Secretary.

viii) CEO, National Payment Corporation of India.

ix) Deputy Managing Director (CIO) State Bank of India or a suitable officer from SBI nominated by DFS.

x) Joint Secretary (Marketing) MOPNG.

xi) Director (Marketing) IOCL on industry basis-Member Secretary.

Rajesh Kukreti, Under Secretary to the Government of India.

No. P-17018/7/2012-LPG (Pt)

Ministry of Petroleum & Natural Gas
Government of India

Shastri Bhawan, New Delhi
Dated: 4th March, 2014.

OFFICE MEMORANDUM

In continuation of this Ministry's Office Memorandum No. P-17018/2/2012-LPG dated 28-2-2014 (copy enclosed), the undersigned is directed to say that the Registrar General & Census Commissioner or his representative not below the rank of Joint Secretary included as a Member of the committee which has been set up to review the functioning of the DBTL scheme keeping in view the difficulties experienced by the beneficiaries in the DBTL scheme.

The following may be added to said OM.

"The Registrar General & Census Commissioner, India or his representative not below the rank of Joint Secretary".

Rajesh Kukreti, Under Secretary to the Govt. of India.

To

- i) Prof. S. G. Dhande, Chairman (Former Director Indian Institute of Technology, Kanpur).
- ii) Mr. Anil Khandelwal (Former Chairman and Managing Director of Bank of Baroda).
- iii) Secretary, Deptt. of Financial Services or his nominee not below the rank of Joint Secretary.
- iv) Secretary, Deptt. of Expenditure or his nominee not below the rank of Joint Secretary.

- v) Mission Director, DBT or his nominee not below the rank of Joint Secretary.
- vi) Director General of UIDAI or his representative not below the rank of Joint Secretary.
- vii) Director General of NIC or his representative not below the rank of Joint Secretary.
- viii) CEO, National Payment Corporation of India.
- ix) Deputy Managing Director (CIO), State Bank of India or a suitable officer from SBI nominated by DFS.
- x) The Registrar General & Census Commissioner, India, New Delhi or his representative not below the rank of Joint Secretary.
- xi) Joint Secretary (Marketing) MOPNG.
- xii) Director (Marketing) IOCL on industry basis-Member Secretary.

Proceeding No. 237/2013

Inquiry Report

The background on the basis of which this *suo motu* proceeding was initiated is as follows:-

It was reported in newspapers that the Hon'ble Supreme Court of India had passed an Order that Aadhaar Card cannot be insisted as pre-condition for obtaining the benefits from the Government. In spite of such direction, it came to the notice of the Commission that the concerned authorities were insisting upon Aadhaar Card for payment of subsidies to the domestic consumers of cooking gas.

2. Accordingly, notices were issued on 01-11-2013 calling upon the Director of Civil Supplies, Panaji-Goa and the Secretary, Ministry of Petroleum & Natural Gas, Central Government, New Delhi to respond to the following questions.

- (i) Whether benefit of subsidy to domestic gas consumers is available even without Aadhaar Card and if so, the modalities for the same.
- (ii) Whether the Bank Account once linked for availing such subsidy can be changed to any other Bank Account?
- (iii) Whether the domestic gas consumers who have purchased "gas" before linking to Bank Account can avail the benefit of subsidy in respect to previous purchases within the permissible limit?

3. In its reply Respondent No.1 stated that the State government had no role to play in the matter for payment of subsidy to the domestic consumers of cooking gas. An Affidavit by way of reply was filed on behalf of the Secretary, Ministry of Petroleum and Natural Gas representing the Union of India. In such Affidavit, a preliminary objection was raised by the Union of India to the effect that Writ Petition (Civil) No. 494/2012 was pending before the Hon'ble Supreme Court of India and "... all issues raised by this Hon'ble Commission are being examined by the Hon'ble Supreme Court" and "...it would not be appropriate nor desirable for this Hon'ble Commission to simultaneously take up the issue which is at large before the Hon'ble Supreme Court."

4. Without prejudice to the above contention Respondent No. 2 also highlighted the following objections:

- i. "...the matter relating to modalities of receiving subsidy for domestic gas consumers does not infringe any human right and thus is not within the jurisdiction of the Hon'ble Commission".
- ii. " The State is well within its rights to ensure adequate safe guards prior to giving subsidy to ensure the bonafide of the recipients. Aadhaar based DBTL scheme is an efficacious mechanism to do so.

5. The Union of India also stated that an application for impleadment held been filed on behalf of the Ministry of Petroleum and further application has been filed for clarification/ modification of the order dated 23-09-2013 in Writ Petition (Civil) 494/2012. In para-6 of the Affidavit filed before this Commission, the Union of India without prejudice to the above, responded to the queries raised by this Commission as follows:

- a) Whether benefit of subsidy to domestic gas consumers is available even without Aadhar Card, and if so the modalities for the same? Under the scheme formulated the consumer has to link his Aadhar number with his LPG Consumer Number as well as to his bank account for the subsidised cylinder as per the consumer's entitlement in those districts where the DBTL Scheme has been implemented. A grace period of 3 months has been given from the date of implementation of the Scheme in DBTL district during which the

consumer who has not linked his Aadhar number to the LPG/Bank data base will keep on getting LPG cylinder at subsidised rate. After the end of the grace period, all LPG consumers will be getting LPG at market price and subsidy will be transferred to only Aadhar linked bank account. Aadhar number is not required for receiving LPG cylinders at market price.

- b) Whether Bank Account once linked for availing such subsidy can be changed to any other Bank Account?

It is stated that it is possible to change the Bank Account once linked for availing such subsidy to any other Bank Account. Such accounts are shared with banks by National Payments Corporation of India (NPCI) using the Move-In/Move Out reports.

- c) Whether domestic gas consumers who have purchased “gas” before the linking to the Bank Account can avail the benefit of subsidy in respect to previous purchases within the permissible limit?

The subsidy being on the basis of a scheme the consumer is required to fulfil the requirements of the scheme and only thereupon will the consumer be entitled to avail of the benefits. Unless a consumer complies with the required formalities, no claim can be made by such consumer to avail the benefit of subsidy. As mentioned above, during the grace period the LPG consumer continues to get LPG at subsidized rates even though he has not linked his Aadhar to LPG/Bank. However, after the end of the grace period he has to link his Aadhar number to LPG/Bank data base failing which such consumer will not be entitled to nor get subsidy and instead will get cylinders at the market price. However, whenever the LPG consumer links the Aadhar number to the LPG/Bank data base, subsidy will be transferred to his Bank account with prospective effect for the balance entitlement of LPG cylinders when they are consumed.

6. In course of hearing which took place on 09-01-2014 learned Asst. Solicitor General appearing for the Union of India also submitted that in view of the provisions contained in Section 29 of the Protection of Human Rights Act, 1993, the Goa State Human Rights Commission has no jurisdiction to deal with any matter pertaining to the Central Government.

7. From the stand taken by the Union of India and the submissions made in course of the oral hearing, the following undisputed factual scenario emerges.

Notwithstanding the order passed by the Hon'ble Supreme Court to the following effect “..... in the meanwhile no person should suffer for not getting the Aadhar Card inspite of the fact that some authority had issued a Circular making it mandatory.....”, the Ministry of Petroleum and Natural Gas is insisting upon possession of Aadhar Card and linking of such Aadhar Card with the bank account and the domestic consumer connection for disbursement of subsidy to the domestic consumers of cooking gas in several areas of the country including Goa and the domestic consumers in Goa who are yet to get Aadhar Identity Card and those domestic consumers who even though in possession of Aadhar Identity Card are yet to connect their Aadhar Cards to the bank account and the domestic gas connection are being deprived of the subsidy in respect of consumption of cooking gas within permissible limit. It is not in dispute that as per the policy decision taken by the Ministry of Petroleum and Natural Gas, a domestic consumer of cooking gas is entitled to receive subsidy in respect of consumption of cooking gas upto 9 cylinders in a year. From the above, it is apparent that the order of the Supreme Court dated 23-09-2013 in Writ Petition is being flouted by the Ministry of Petroleum and Natural Gas in as much as such Ministry is insisting on linking of the Aadhaar Card for disbursement of the subsidy.

8. It is no doubt true that an application has been filed by the Ministry of Petroleum and Natural Gas to modify/clarify the order dated 23-09-2013. However, till such order is modified/clarified there cannot be any iota of doubt that such order of the Hon'ble Supreme Court is required to be implemented in letter and spirit by all concerned including the Ministry of Petroleum and Natural Gas. The Ministry should not have violated such order with impunity by insisting upon linking of Aadhar Card as the sole basis for obtaining the benefit of subsidy in the matter of consumption of cooking gas within the permissible limit of 9 cylinders per annum.

9. In the above context, the objection now raised before the Goa Human Rights Commission to the effect that since the matter is pending before the Hon'ble Supreme Court, the present proceeding before the Goa Human Rights

Commission should be dropped is to be examined. The present proceeding which has been initiated *suo motu* by the Goa Human Rights Commission is with a view to ascertain whether the order of the Supreme Court is being complied with or not and not with a view to examine the question of legal basis of Aadhar Card or the wisdom and the necessity of mind boggling investment made by the Central Government for issuance of Aadhar Card. This Commission only intends to reflect the deep concern of the common man on the street in all parts of India including the State of Goa regarding the non-implementation of the clear direction of the Hon'ble Supreme Court.

10. This Commission feels that the technical objection raised by the Union of India to the effect that "a modality of receiving subsidy for domestic gas consumers does not infringe any human right and it is not within the jurisdiction of the Commission" goes only to show the apathy of the Union of India towards thousands of genuine consumers of domestic cooking gas many of whom either because of lack of proper advice or because of ignorance and even poverty are yet to obtain Aadhar Card or to link the Aadhar Card with the domestic gas connection and bank account. From the reply of the Union of India, it is apparent that there are still many domestic cooking gas consumers who are yet to obtain Aadhar Card and yet to link the Aadhar Card with the domestic gas connection and the bank account.

11. Use of cooking gas, as a mode of cooking instead of more conventional means such as firewood or kerosene or electricity has become the accepted mode of cooking even among the poor below the poverty line in view of convenience and easier accessibility. It is evident that use of other medium such as firewood or kerosene would cause more hazards to the environment as compared to use of cooking gas. Use of cooking gas as medium of cooking is encouraged by all concerned including the Government. The policy of subsidizing supply of cooking gas to the domestic consumer is in fact policy of the Central Government aimed at encouraging such mode of cooking rather than the conventional cooking mode such as firewood or kerosene. It cannot be disputed that many of the domestic consumers of cooking gas belong to poorer sections of the Society. The non-disbursement of the subsidy to such poorer and illiterate section of the Society would defeat the very purpose of

subsidizing the supply of cooking gas to the domestic consumer. In order to avoid leakage in payment of subsidy to the bonafide domestic consumer, the disbursement through the bank account may be welcome measure but to insist that such disbursement through the bank can be made only after Aadhar Card is linked with the bank as well as domestic gas consumption membership does not appear to be sound and practical as many of the genuine domestic consumers are yet to get Aadhar Card and yet to link the same with their bank account. In this connection it is to be remembered that as per the present banking norms, no person can open any bank account without the bank being satisfied about the identity and residence of such person. If any fraud is committed by any particular consumer/customer it is always open to the concerned authorities to take stringent action including initiating of criminal proceedings.

12. There is no dispute with the proposition that no person can claim as a matter of legal right, any subsidy to be given by the Government. However, when the Government itself lays down the policy relating to grant of subsidy, all persons should be treated equally and no person should be deprived of the right to get subsidy in accordance with the Government policy on the basis of some artificial discriminatory instructions applied selectively in certain areas. To that extent, the right of domestic consumers of cooking gas to be treated equally is a fundamental right and it can be said that the violation of such right would be the violation of human right. Any person in order to survive is required to cook and eat and obviously has very legitimate expectation of being treated fairly. Moreover, as indicated earlier, the purpose of the present inquiry is to find out whether the order of the Hon'ble Supreme Court of India which is binding on all the authorities of India in view of Article-141 of the Constitution of India is being followed or not. In this context, it is to be remembered that it is almost impossible for every common man in India to bring to the notice of the Hon'ble Supreme Court that its order is not being followed by the Governmental agencies. It is obviously within the domain of the Hon'ble Supreme Court to take appropriate action as inspite of its order to the effect "no person should suffer for not getting Aadhar Card" many poor people are suffering as they have been deprived of the right of getting the subsidy on the ground that they do not possess Aadhar Card.

13. To insist on possession of Aadhar Card inspite of the direction of the Hon'ble Supreme Court cannot be justified by the Union of India on the basis of certain mere technicalities relating to lack of jurisdiction of the State Human Rights Commission. Moreover, this matter is being inquired into by the Goa State Human Rights Commission as a spokesperson for the thousands of genuine domestic consumers of cooking gas many of whom belong to poorer section of the society. In the considered opinion of this Commission, the Union Government should have made bonafide efforts to implement the direction of the Hon'ble Supreme Court of India by paying the subsidy to the domestic gas consumer through the bank account without insisting on possession and linking of Aadhar Card. Moreover, the Union of India should have also disbursed such subsidy to the domestic consumer of cooking gas within the permissible limit of 9 cylinders per annum, retrospectively notwithstanding the fact that the Aadhar Card has been linked subsequently to the bank account. This apparently would be a simple task in as much as the distributors of gas are in possession of relevant data relating to issuance of gas to the domestic gas consumers.

14. The learned Assistant Solicitor General appearing for the Union of India in course of his oral submission, referred to Section-29 of the Protection of Human Rights Act, 1993 and submitted that in view of the above provision, there is no jurisdiction conferred on the State Human Rights Commission to call for a report from the Central Government or any other authority or organisation subordinate to Central Government and therefore the present proceeding should be dropped.

15. To consider the above submission, it is necessary to notice the relevant provisions in the Act. The provisions contained in the Protection of Human Rights Act, 1993 are obviously beneficial provisions to effectuate valuable fundamental rights as contemplated in Article-14 and Article-21 particularly and also to effectuate different international conventions and charters relating to Protection of Human Rights and as such should be liberally construed with a view to effectuate the legislative intention rather than stifle the human rights by an overly narrow interpretation.

16. Section-12 occurring in Chapter III relates to functions and powers of the Commission which as per the definition as contained in

Section-2 (c) means the National Human Rights Commission constituted under Section-3. Section-13 (2) empowers the Commission to require any person to furnish information on matters useful or relevant to the subject of inquiry Section-17 which occurs in Chapter-IV relating to procedure is extracted hereunder.

Section 17:- The Commission while inquiring into the complaints of violations of human rights may -

- (i) *call for the information or report from the Central Government or any State Government or any other authority or organisation subordinate thereto within such time as may be specified by it:*

Provided

- (a) *If the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;*
- (b) *If, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly;*
- (ii) *Without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.*

Section-18 envisages the steps which may be taken during or upon completion of inquiry by the Commission.

17. State Human Rights Commission may be constituted under Section-21 of the Act occurring in Chapter V. The jurisdiction of State Human Rights Commission is outlined by providing Section-21 (5) which is extracted hereunder;

A State Commission may inquire into violation of human rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution:

Provided that if any such matter is already being inquired into by the Commission or any other Commission duly constituted under any law for the time being in force, the State Commission shall not inquire into the said matter.

Section-29 makes certain provisions relating to National Human Rights Commission applicable to State Commission by providing “the provisions of Section-9, 10, 12, 13, 14, 15, 16, 17 and 18” shall apply to the State Commission and shall have effect subject to the following modifications namely (a) xxxxx omitted, (b) xxxxx omitted, (c) in Section-12 clause (f) shall be omitted, (d) in Section-17 in clause (i), the words “Central Government or any” shall be omitted.

18. The effect of Section-29 (c) is that the function and powers of the National Human Rights Commission as envisaged in Section-12 (f) to the effect “study treaties and other international instruments on human rights and make recording for their effective implementation” is not available and applicable to the State Human Rights Commission but all other functions and powers of the National Human Rights Commission as envisaged in Section-12 except 12 (f) are available to the State Human Rights Commission. However, jurisdiction of the State Human Rights Commission is circumscribed by virtue to Section-21 (5) which provides that “a State Commission may inquire into the violation of human rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the 7th Schedule of the Constitution”. In other words, the State Commission does not have any jurisdiction to inquire into the violation of human rights in respect of matters relatable to the entries enumerated in List I in the 7th Schedule that is to say in respect of matters relatable to the Union list. Section-12 (a) empowers National Human Right Commission or the State Human Rights Commission as the case may be to inquire *suo motu* or on a petition presented to by a victim or any person on his behalf into the complaint of violation of human rights or abetment thereof or negligence in the prevention of such violation by a public servant. Section-12 (b) empowers the National Human Rights Commission or the State Human Rights Commission as the case may be to intervene in any proceeding involving any allegation on violation of human rights pending before the court with the approval of such court. Section-12 (d) empowers the National Human Rights Commission or the State Human Rights Commission as the case may be to review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend

measures for their effective implementation. Section-12 (j) empowers the National Human Rights Commission or the State Human Rights Commission as the case may be to perform such other functions as it may consider necessary for the promotion of human rights. A combined and harmonious reading of Section-12, 21 and 29 makes it clear that the State Human Rights Commission can inquire either *suo motu* or on the basis of petition into any of the aspects envisaged in Section-12 except Section-12 (f) provided it is in respect of matters relatable to any of the entries enumerated in List II and List III in the 7th Schedule of the Constitution.

19. It is axiomatic that such inquiry must pertain to matters within the geographical territory of the State concerned. If in any given case any violation of human right takes place within the geographical territory of the State by a public servant employed even by the Central Government, the State Commission may have jurisdiction to inquire into the such alleged violation of human rights provided the matter relates to List II and List III of the 7th Schedule of the Constitution. For example, if an Income Tax Officer posted in a particular State violates the human right of any inhabitant of that State by assaulting him, the State Human Rights Commission would have the jurisdiction to inquire into such violation because the public servant concerned has committed an offence within the territory of the State and the matter comes within Entry 1 relating to Criminal Law in 7th Schedule of List III. It is no doubt true that in such an eventuality, the National Human Rights Commission would also have the jurisdiction to inquire into the matter. If National Human Rights Commission is in seisin of such a matter then the State Commission shall not inquire into the matter as contemplated in Section-21 (5) proviso.

20. Section-17 relied upon by the learned Assistant Solicitor General pertains to procedures to be adopted and does not whittle down the ambit of functions and powers of the State Commission as provided in Section-12 read with Section-21 and Section-29. Section-17 itself envisages that the National Human Rights Commission while inquiring into the complaints of violation of human rights may call for the information or report from the Central Government or any State Government or any other authority or organisation subordinate by it. The proviso envisage that if the information or report is not received within the time

stipulated by the Commission, it may proceed to inquire into the complaint on its own. On the other hand, proviso (b) contemplates that if on receipt of information or report the Commission is satisfied that no further inquiry is required, it may not proceed with the complaint and inform the complainant accordingly. Similarly, the Commission if on receipt of information or report is satisfied that action has been initiated or taken by the concerned Government, it may not proceed with the complaint and inform the Complainant accordingly. However, Section-17 (ii) lays down that if the Commission considers necessary it can initiate an inquiry without prejudice to anything contained in clause-I. In other words, Section-17 provides certain procedural aspects for holding inquiry efficiently but it does not curtail the ambit of functions and powers envisaged in Section-12 particularly when a *suo motu* inquiry is conducted by the Commission. Section-17 itself makes it clear that the procedure contemplated in Section-17 (i) can be resorted to by the Commission while inquiring into the complaint. In the given case where complaint is filed, before proceeding further, discretion is given to the Commission to call for information or report from the Central Government or State Government or any other authority as the case may be. The effect of Section-29 is that the State Commission while inquiring into the complaint of violation of human rights by Central Government or any other authority subordinate of such Central Government is not required to call for information or report from the Central Government. However, the restriction as envisaged under Section-29 could not be applicable where the inquiry is *suo motu*. The State Commission can initiate or continue an inquiry only if it is satisfied that the violation of human right is in respect of matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution.

21. The present proceeding is relating to the matter relatable to entry 34 of List III (concurrent list) price control. The question of amount to be paid by the domestic consumer of cooking gas is essentially the matter relating to “price control of such commodity”. The policy of the Central Government regarding amount to be paid by the consumer in pith and substance would come within the expression “price control” as envisaged in entry 34 of List III rather than under the Entry 53-that is regulation

and development of oil fields and mineral oil resources, petroleum and petroleum products, other liquids and substances declared by Parliament by law to be dangerously inflammable contained in List I of the Union List of the 7th Schedule.

22. For the above reasons, this Commission recommends as follows:

- i) Insistence on possession of Aadhar Identity Card as a condition precedent for getting the subsidy for consumption or domestic cooking gas within the permissible limit of 9 cylinders notwithstanding the direction of the Supreme Court to the contrary, amounts to gross violation of the order of the Hon'ble Supreme Court and this aspect is required to be brought to the notice of the Hon'ble Supreme Court by forwarding a copy of this report to the Registry of the Hon'ble Supreme Court of India to be considered by the Hon'ble Supreme Court, if found appropriate and proper.
- ii) The Ministry of Petroleum should make efforts to disburse subsidy to the bonafide domestic consumers of cooking gas within the permissible limit of 9 cylinders through the banks concerned without insisting on possession of Aadhar Card and linking of such Aadhar Card.
- iii) Such benefit of disbursement should be made even retrospectively to all domestic consumers of cooking gas within the permissible limit of 9 cylinders per annum, at least from 23-09-2013 when order was passed by the Hon'ble Supreme Court.

Sd/- (Justice P. K. Misra)	Sd/- (A. D. Salkar)	Sd/- (J. A. Keny)
Chairperson	Member	Member
Goa Human	Goa Human	Goa Human
Rights	Rights	Rights
Commission	Commission	Commission

Panaji, 5th February, 2014.

◆◆◆
Department of Home

Home—General Division

—
Order

No. 17/5/2010-HD(G)/2995

Ref.: Government order No. 17/5/2010-HD(G)
dated 03-10-2012.

Government is pleased to re-constitute new Finance Committee in the Department of Sainik

Welfare consisting of the following to advise the Member Secretary on all matters pertaining to investments and review of quantum of financial assistance provided under various schemes of Special Fund.

1. Vice Adm. John C. De Silva, — Chairman.
PVSM, AVSM (Retd.)
2. Lt. Col. K. F. D'Lima (Retd.) — Member.
3. Capt. C. A. Manuel (Retd.) — Member.
4. Joint Director of Accounts, — Member.
Dte. of Accounts, Panaji
5. Accountant, Department of — Member.
Sainik Welfare, Panaji
6. Secretary, Department of — Member
Sainik Welfare Secretary.

The tenure of the Finance Committee shall be for a period of two years w.e.f. 4-10-2014 to 3-10-2016.

By order and in the name of the Governor of Goa.

Neetal P. Amonkar, Under Secretary (Home).

Porvorim, 19th September, 2014.

Order

No. 5/2/97-HD(G)/3038

- Read: 1) Government Order No. HD-50-680/66-A dated 27-11-1968 published in the Government Gazette, Series II No. 37 dated 12-12-1968.
- 2) Government Order No. HD-50-680/66-A Vol. II dated 10-08-1973 published in the Official Gazette, Series II No. 22 dated 30-08-1973.
- 3) Government Order No. 5/2/97-HD(G) dated 03-07-2003 published in the Official Gazette, Series II No. 17 dated 24-07-2003.

In exercise of the powers conferred by Section 2 of the Bombay Home Guards Act, 1947 (Bombay Act No. III of 1947), as applicable to the State of Goa, read with Rule 11 of the Goa, Daman and Diu Home Guards Rules, 1966 and Section 21 of the General Clauses Act, 1897 (Central Act 10 of 1897), the Government of Goa hereby amends the Government Order No. HD-50-680/66-A dated 27th November, 1968 published in the Government Gazette, Series II, No. 37 dated 12-12-1968 (hereinafter called the 'said Order'), as follows:

In the schedule to the said order, after entry at Sr. No. 8, the following entry shall be inserted, namely:-

“9. Sub-Divisional Police Officer, Quepem.”
Quepem

By order and in the name of the Governor of Goa.

Neetal P. Amonkar, Under Secretary (Home).

Porvorim, 23rd September, 2014.

Order

No. 2/170/2014-HD(G)/2994

In pursuance to the directions issued by the Hon'ble Supreme Court of India vide Order dated 23-07-2014 passed in Criminal Appeal No. (S). 14 - 16 of 2009 filed by Lallan Singh & Ors v/s State of Uttar Pradesh, the Government of Goa hereby constitutes a State Level Supervisory Committee constituting of the following members, namely:-

- (i) Secretary (Home).
- (ii) Secretary (Law).
- (iii) Director General of Police, Goa.
- (iv) Secretary, Goa State Legal Services Authority.

The above Committee shall monitor and review cases where convicts have not been apprehended and submit a biannual status report to the Executive Chairman of the Goa State Legal Services Authority, who may in consultation with the Patron-in-Chief of the Goa State Legal Services Authority take such action in the matter as is considered fit including, if necessary, taking up the matter on the judicial side.

The above Committee shall be in addition to and not in substitution of any existing mechanism at the district level.

By order and in the name of the Governor of Goa.

Neetal P. Amonkar, Under Secretary (Home).

Porvorim, 19th September, 2014.

Order

No. 24/74/2009-HD(G)/3130

Government is pleased to constitute the Departmental Screening Committee for considering the cases under Modified Assured

Career Progression Scheme in Directorate of Prosecution in r/o the post of Director of Prosecution, comprising of following:

- 1) Chief Secretary/Admn. — Chairman.
Secretary
- 2) Addl. Secretary (Home) — Member.
- 3) Addl. Secretary (Personnel) — Member.

The above committee shall come into force with immediate effect.

By order and in the name of the Governor of Goa.

Neetal P. Amonkar, Under Secretary (Home).

Porvorim, 30th September, 2014.

Order

No. 24/74/2009-HD(G)/3131

Government is pleased to constitute the Departmental Screening Committee for considering the cases under Modified Assured Career Progression Scheme in Directorate of Prosecution for Group 'A' posts i.e. Public Prosecutor, comprising of following:

- 1) Addl. Secretary (Home) — Chairman.
- 2) Director of Prosecution — Member.
- 3) Addl. Secretary (Personnel) — Member.

The above committee shall come into force with immediate effect.

By order and in the name of the Governor of Goa.

Neetal P. Amonkar, Under Secretary (Home).

Porvorim, 30th September, 2014.

Corrigendum

No. HD(G) 45-59/575/66-Vol-III/3010

Read: Government Notification No. HD(G) 45-59/575/66-Vol-III/2473 dated 18-07-2014.

In the Government Notification referred to above, the words "GOC-in-C, Western Naval Command-Vice President" figuring at Sl. No. 3 shall be read as "FOC-in-C, Western Naval Command-Vice President".

By order and in the name of the Governor of Goa.

Neetal P. Amonkar, Under Secretary (Home).

Porvorim, 22nd September, 2014.

Department of Industries

Order

No. 3/26/2014-IND (Part)(1)

In exercise of the powers conferred by sub-section (5) of Section 3 of the Goa Investment Promotion Act, 2014 (Goa Act 13 of 2014) (hereinafter referred to as the "said Act"), the Government of Goa hereby appoints Shri Srinet Kotwale as the Chief Executive Officer of the Goa Investment Promotion and Facilitation Board till the Chief Executive Officer is duly appointed by the Government in terms of Section 11 of the said Act.

This Notification shall come into force with immediate effect.

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Industries).

Porvorim, 1st October, 2014.

Order

No. 3/26/2014-IND (Part)(2)

Read: 1) Order No. 3/26/2014-IND dated 24-09-2014.

In pursuance to the Order referred to in the preamble above, the Government hereby designates, "Paryatan Bhavan" as the office for the Goa Investment Promotion and Facilitation Board.

This issues with the approval of the Hon'ble Chief Minister.

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Industries).

Porvorim, 1st October, 2014.

Notification

No. 3/26/2014-IND (Part)

In exercise of the powers conferred by Section 3 of the Goa Investment Promotion Act, 2014 (Goa Act 13 of 2014), the Government of Goa hereby constitutes the Goa Investment Promotion and Facilitation Board consisting of the following namely:-

- 1) Chief Minister of Goa — Chairperson
Ex officio.

2) Minister for Information and Technology	— Vice-Chairperson Ex officio.	IN THE INDUSTRIAL TRIBUNAL AND LABOUR COURT GOVERNMENT OF GOA AT PANAJI	
3) Minister for Tourism	— Vice-Chairperson Ex officio.	(Before Ms. Bimba K. Thaly, Presiding Officer)	
4) Minister for Industries	— Vice-Chairperson Ex officio.	Shri Mollo D. Dohifode & Ors., H. No. 494, Tamdimol, Collem, Dharbandora, Goa	Ref. No. IT/8/13
5) Secretary (Industries)	— Member.	Workmen/Party I.
6) Secretary (Tourism)	— Member.	V/s	
7) President, CII, Goa Council	— Member.	M/s. Riviera Farm, Tamdimol, Collem, Dharbandora, Goa
8) President, Goa Chamber of Commerce & Industries	— Member.	Employer/Party II.
9) Mr. Martin Ghosh	— Member.	Workmen/Party I represented by Adv. Ms. V. Gawas.	
10) Mr. Atul Pai Kane	— Member.	Employer/Party II represented by Adv. Shri P. Parab.	
11) Mr. Shekhar Sardesai	— Member.		
12) Mr. Nitin Cuncolikar	— Member.		
13) Chief Executive Officer	— Member Secretary.		

AWARD

(Passed on 7th day of February, 2014)

This Notification shall come into force with immediate effect.

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Industries).

Porvorim, 1st October, 2014.

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Department of Labour

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Notification

No. 28/1/2014-Lab/228

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 07-02-2014 in reference No. IT/8/2013 is hereby published as required by section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Labour).

Porvorim, 8th April, 2014.

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) (for short the Act) the Government of Goa by order dated 2-05-13 bearing number 28-02-2013 Lab/216 has referred the following dispute for adjudication by this Tribunal.

“(1) Whether the action of the management of M/s. Riviera Farm, Tamdbimol, Collem, Dharbandora, Goa, in refusing employment to the following workers, with effect from 01-07-2011 and non-payment of their wages from June, 2009 onwards is legal and justified?

- (1) Shri Mollo D. Dohifode.
- (2) Smt. Mangal alias Laxmi G. Khedekar.
- (3) Smt. Lakhi W. Thate.
- (4) Smt. Suman B. Khandeparkar.
- (5) Smt. Halan Rapose.

(2) If not, what relief each of the Workman is entitled to?”

2. On receipt of the reference, a case was registered under No. IT/8/13 and registered A.D. notices were issued to the parties. Upon receipt of the notice, Party I filed the claim statement at Exb. 6. Party II refused to accept the notice and therefore after giving several opportunities to Party II, proceedings were ordered to proceed ex-parte against it.

3. In the claim statement, it is in short the case of Party I/Workmen, that Party II is an agricultural establishment situated in Tambdimol, Collem, Dharbandora, Goa and they were engaged in the said farm to do agricultural operations. It is their case, that they have put in continuous service of more than 20 years in the said establishment. It is stated that one Shri P. V. Sable was the supervisor engaged by the management of the said farm and he was giving them instructions regarding operations and work to be performed on the said farm and was also paying their wages. It is stated that the last wages paid to them were in May, 2009. It is stated that sometimes they were also made to work in the adjacent farm owned by one Smt. Sejal Parimalkumar Patel and Shri Sable had promised them that Smt. Patel would pay their compensation for the work done in her farm. It is stated that from June, 2009 Shri Sable stopped paying their wages and represented to them that Smt. Patel who had arrived in Goa, would pay their dues. It is stated that accordingly Smt. Patel issued them demand drafts of Rs. 25,000/- each and took their signatures on papers, however subsequently they came to know that those papers were, in fact, the affidavits and Mrs. Patel had fraudulently taken signatures on their affidavits stating that they were her workers and they had received the balance wages of Rs. 25,000/-. It is stated that on 1-7-11, Shri Sable refused to allow them to enter the farm thereby refusing employment to them and as such they complained to the Asstt. Labour Commissioner. It is stated that during discussion before Dy. Labour Commissioner, Party II sought to settle their dues. However, later the management changed its mind and fraudulently took their thumb impression by misrepresenting to them that they were paid the pending dues for the work done on the farm of Smt. Patel. It is stated that Party I workers were in continuous employment with Party II and they have not been paid retrenchment compensation or one month wages in lieu of notice. It is stated that the action of the Party II in terminating their services is malafide. Hence the reference, praying for an award by holding that the action of Party II in refusing the employment to Party I workmen w. e. f. 1-7-11 is illegal and unjustified and to direct Party II to reinstate them in service with continuity of service and also to pay them unpaid wages from June, 2009 till 1-7-11.

4. I have already mentioned supra that Party II despite given opportunity did not file their written statement. However, on 6-2-14 Adv. Shri Parab appeared on behalf of Party II and both the parties filed the consent terms at Exb. 10. Ld. Advocate for Party II also filed an application signed by Ms. Sonali Kale, the owner of Party II farm, authorizing him to settle the matter. All the workmen remained present in person. The consent terms filed by both the parties at Exb. 10 read as under:

1. It is agreed by and between the parties that the Employer/Party II M/s. Riveira Farms, shall pay to workmen/Party I Shri Mollo Dohifode and other workmen the following sums in full and final settlement of their claims against the Employer/Party II:

Sr. No.	Names	Amount
1.	Shri Mollo Dohifode	Rs. 1,00,000/-
2.	Smt. Mangal alias Laxmi G. Khedekar	Rs. 1,00,000/-
3.	Smt. Lakhi W. Thate	Rs. 1,00,000/-
4.	Smt. Suman B. Khandeparkar	Rs. 1,00,000/-
5.	Smt. Helen Raposo	Rs. 60,000/-

2. The Workmen/Party I hereby agree and declare that all their claim and disputes with the Employer/Party II have been conclusively settled by these Consent Terms and they have no claim or demand of whatsoever nature against the Employer/Party II.
3. The parties agree to file these Consent Terms in the Hon'ble Industrial Tribunal-cum-Labour-Court 1, Panaji-Goa in Ref. No. IT/8/2013 with a request to pass an Award as per these Consent Terms.
5. The above Consent Terms are signed by all the workmen to this reference as well as their Adv. Ms. V. Gawas and Adv. Shri P. Parab on behalf of Party II.
6. I have gone through the terms of the settlement at Exb. 10 and I am satisfied that the terms of settlement are certainly in the interest of workmen. I, therefore, accept the said terms and pass the following:

ORDER

1. The reference stands disposed off by consent award in view of the Consent Terms at Exb. 10, filed by the parties.
2. No order as to costs.

Inform the Government accordingly.

Sd/-

(Bima. K. Thaly)
Presiding Officer
Industrial Tribunal-
-cum-Labour Court-I.

Notification

No. 28/1/2014-Lab/290

The following award passed by the Industrial Tribunal and Labour Court at Panaji-Goa on 22-04-2014 in reference No. IT/6/94 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Shashank V. Thakur, Under Secretary (Labour).
Porvorim, 23rd May, 2014.

IN THE INDUSTRIAL TRIBUNAL AND
LABOUR COURT
GOVERNMENT OF GOA
AT PANAJI

(Before Ms. Bimba K. Thaly, Presiding Officer)

Ref. No. IT/6/94

Shri Vishwanath N. Kochkar,
H. No. 190, Fatorda,
Margao, Goa

..... Workman/Party I.

V/s

M/s. Automobile Corporation
of Goa Ltd.,
Honda-Satari, Goa

..... Employer/Party II.

Workman/Party I represented by Shri K. V. Nadkarny.

Employer/Party II represented by Adv. Shri M. S. Bhandodkar.

AWARD

(Passed on 22nd day of April, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial

Disputes Act, 1947 (14 of 1947) (for short the Act), the Government of Goa by order dated 7-10-93 bearing number 28/51/93-LAB has referred the following dispute for adjudication by this Tribunal.

- “(1) Whether Shri Vishwanath N. Kochkar is a workman within the meaning of section 2(s) of the Industrial Disputes Act, 1947 (Central Act 14 of 1947)?
- (2) If so, whether the action of the management of M/s. Automobile Corporation of Goa Ltd., Honda, Satari, Goa in terminating the services of Shri Vishwanath N. Kochkar, with effect from 2-2-1993 is legal and justified?
- (3) If the answer, to (2) above is negative, to what relief the workman is entitled?”

2. On receipt of the dispute, reference No. IT/6/94 was registered and notices were issued to the parties. Upon receipt of the notice, Party I filed the claim statement at Exb.3. Party II filed the written statement at Exb.4. Party I then filed the rejoinder at Exb. 5.

3. In the claim statement, it is in short the case of Party I that he was employed with Party II initially as trainee and he completed the training on 10-11-87. It is his case that he was then absorbed as a supervisor and later deputed to Japan to undergo training which he completed successfully. He stated that thereafter he was placed in regular pay scale w. e. f. 11-11-88. It is stated that Party I was then promoted as an Asst. Engineer w. e. f. 1-7-89 and again was sent for training at M/s. Fuji Heavy Industries, Japan. It is stated that by letter dated 24-11-90 Party I was promoted as Engineer-I w. e. f. 1-7-90. It is stated that subsequently by letter dated 30-6-92 Party I was promoted as Engineer-II w.e.f. 1-7-92 and thereafter his salaries were revised from time to time. It is stated that on 2-2-93 Party II received a letter from the company informing that his services were no more required by the company and that he was relieved from the services of the company, without assigning any reason of whatsoever nature. It is stated that by letter dated 15-2-93 Party I raised a dispute before the Managing Director of Party II regarding illegal termination of his service but did not receive any reply and as such he raised an industrial dispute before the Labour Commissioner, Panaji. It is stated that the conciliation proceedings ended in failure. It is the case of Party I that the duties performed by him were essentially and predominantly technical and operational in nature and not of managerial or

administrative or supervisory nature. It is stated that main and chief functions of Party I were to himself personally design bus bodies on the chassis and to draw the diagrams and drawings or other charts relating to the drawings of the body designs. It is stated that as a Production Engineer he was associated with the prime duties of preparing technical drawings and his functions as a design Engineer were not independent nor he was a decision making authorities nor was he confirmed with the decision making authority by the company. It is stated that the Party I was not empowered by the company to take any independent financial decisions for the company or to employ any employees for the company under his signature or to initiate any disciplinary proceedings against the workers. It is stated that whatever correspondence he had been carrying on was in the nature of seeking technical clarification and guidance whenever difficulties were found or felt by him in the matter of designing of bus bodies or any other work coming under his purview. It is stated that at the time of his illegal termination, Party I was working in the Production Department and he used to report to Mr. S. A. Kulkarni who was his immediate Superior in the company. It is stated that as Party I after his promotion was never informed about any of the service conditions in the company, he presumed that the same were governed under the Certified Standing Orders of the company. It is stated that at the time of termination of his service, Party I was neither issued any charge sheet nor any memo asking for his explanation nor he was given any opportunity to explain the circumstances for his abrupt termination of his services by the company. It is stated that Party II dismissed him from services in the most vindictive manner without giving any opportunity to explain the reason and in violation of principles of natural justice. It is therefore the case of Party I that Party II has violated the provisions of Section 25 of the Act. Party I has therefore prayed to hold that the termination of his services by Party II is unjustified, illegal and bad in law and to order his reinstatement in service w. e. f. 2-2-93 with full back wages and continuity of service. It is stated that ever since the termination of his services, Party I is unemployed.

4. In the written statement Party II has denied the case set up by Party I and has categorically stated that Party I is not a workman. It is stated that Party I was mainly doing managerial/ administrative and supervisory function and drawing salary of more than Rs.1600/- per month

and his last drawn salary was Rs. 4152.50. It is their case that Party I was reporting to the Managing Director for consultations and was heading a team comprising of employees of different levels. It is their case that Party I had authority to plan the work for his subordinates, sanction leave for them, recommend them for promotions/punishments as per the cases. It is stated that the duties of Party I were mainly of managerial, administrative and supervisory nature. It is stated that Party I was not governed by Certified Standing Orders of the Company but by the letter of appointment/contract of service and service rules applicable to the officers of the company and as his services were terminated as per the letter of appointment, there is no question of issuing charge sheet or seeking his explanation. Party II has also denied that the termination of services of Party I is malafide, unjust or illegal or that it is covered by the provisions of Sec. 25 of the Act or that it is in violation of principles of natural justice. According to Party II, Party I has therefore made out any case for seeking any relief.

5. In the rejoinder Party I has controverted the plea taken by Party II in the written statement and has asserted his case in the claim statement.

6. On the basis of the pleadings of the respective parties, following issues were framed:

1. Whether Party I proves that he is a workman within the meaning of Sec. 2(s) of the Industrial Disputes Act, 1947?
2. Whether Party I proves that the termination of his services by Party II w.e.f. 2-2-93 is illegal and unjustified?
3. Whether Party II proves that Party I was doing mainly managerial/administrative & supervisory function and his last drawn salary was Rs. 4152.50?
4. Whether Party II proves that the services of Party I were terminated as per the terms and conditions of contract and hence the termination is justified?
5. Whether Party I is entitled to any relief?
6. What Award.

7. In the course of evidence Party I Shri Vishwanath Kochkar was examined as witness No. 1 and the case of Party I was then closed. On the other hand Party II examined their Senior Manager Shri Deepak Kadkade and closed their case.

8. In the course of further proceedings both the parties settled the matter amicably among themselves and filed the consent terms dated 17-4-14 at Exb.21. The said consent terms read as under:

1. It is agreed by M/s. Automobile Corporation of Goa Ltd./Party II that termination letter issued to the Party I Shri Vishwanath Kochkar dated 2-2-1993 shall stand withdrawn and it would be deemed that he has resigned from services of the company on 2-2-1993.
2. It is agreed by the Party II/M/s. Automobile Corporation of Goa Ltd., that resignation of Party I/Shri Vishwanath Kochkar is deemed to have been accepted on 2-2-1993 and his termination stands withdrawn.
3. It is agreed by the Party I/Shri Vishwanath Kochkar that he does not desire to claim any money or any benefit arising out of his employment with the company, which can be computed in terms of money, in view of his resignation, since his termination is withdrawn and his resignation is being accepted.
4. In view of the above, both the parties agree to the consent terms put forth before the Industrial Tribunal for settlement and request the Industrial Tribunal to dispose off the reference as agreed on the above terms, as Party I/Shri Vishwanath Kochkar has resigned from the services of the company and does not desire to claim any money/benefit arising out of the settlement, which can be computed in terms of money.

9. The above Consent Terms are signed by all the Employer/Party II as well as representative of Party I and the Advocate for Party II.

10. I have gone through the consent terms at Exb. 21 and I am satisfied that the said terms are certainly in the interest of both the parties. I, therefore, accept the said terms and pass the following:

ORDER

1. The reference stands disposed off by consent award in view of the consent terms, at Exb. 21, filed by the parties.

2. No order as to costs.

Inform the Government accordingly.

Sd/-
(Bimba K. Thaly)
Presiding Officer
Industrial Tribunal-
-cum-Labour Court-I.

Department of Mines

Directorate of Mines & Geology

Corrigendum

No. 01/23/2014/STA/ADMN/Mines/1861

Ref.: 01/23/2014/STA/ADMN/Mines/1835 dated 10-9-2014.

The fourth para of the above referred order stands corrected to read as: 'The pay of the promoted post shall be fixed from the date of joining' instead of: 'She shall exercise her option for fixation of the pay and allowances in the promotional grade in terms of F.R.22(I)(a)(1) within a period of one month from the date of her promotion as Assistant Geologist. The option once exercised shall be final.

By order and in the name of the Governor of Goa.

Prasanna A. Acharya, Director (Mines & Geology).

Panaji, 12th September, 2014.

Corrigendum

No. 01/23/2014/STA/ADMN/Mines/1862

Ref.: 01/23/2014/STA/ADMN/Mines/1837 dated 10-9-2014.

The fourth para of the above referred order stands corrected to read as: 'The pay of the promoted post shall be fixed from the date of joining' instead of: 'He shall exercise his option for fixation of the pay and allowances in the promotional grade in terms of F.R.22(I)(a)(1) within a period of one month from the date of her promotion as Assistant Geologist. The option once exercised shall be final.

By order and in the name of the Governor of Goa.

Prasanna A. Acharya, Director (Mines & Geology).

Panaji, 12th September, 2014.

Corrigendum

No. 01/23/2014/STA/ADMN/Mines/1863

Ref.: 01/23/2014/STA/ADMN/Mines/1836 dated 10-9-2014.

The fourth para of the above referred order stands corrected to read as: 'The pay of the promoted post shall be fixed from the date of joining' instead of: 'He shall exercise his option for fixation of the pay and allowances in the promotional grade in terms of F.R.22(I)(a)(1) within a period of one month from the date of his promotion as Assistant Geologist. The option once exercised shall be final.

By order and in the name of the Governor of Goa.

Prasanna A. Acharya, Director (Mines & Geology).

Panaji, 12th September, 2014.

**Department of Personnel**

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Order

No. 5/10/95-PER(Vol.II)/4753

Shri L. S. Roncon Pereira, Additional Director of Panchayats-II, shall hold charge of the post of Custodian of Evacuee Property, in addition to his own duties, with immediate effect and until further orders.

By order and in the name of the Governor of Goa.

Yetindra M. Maralkar, Additional Secretary (Personnel).

Porvorim, 11th September, 2014.

Order

No. 7/42/2014-PER/4832

In pursuance to Indian Council of Forestry Research and Education, Dehradun letter No. 32-20/2013-ICFRE dated 15-07-2014, the Governor of Goa is pleased to relieve Smt. Yasodha K. IFS, Dy. Conservator of Forests, Research & Utilization, Margao Goa from this Administration, with immediate effect to take up her new assignment as Dy. Conservator of Forests at Institute of Forest Genetics & Tree Breeding, Coimbatore under ICFRE.

Consequent to the transfer of Smt. Yasodha K. IFS, Shri Sanjay K. Waradkar, IFS, Dy. Conservator

of Forests, Working Plan, Ponda shall look after the charge of Dy. Conservator of Forests, Research & Utilization, Margao-Goa, in addition to his own duties and until further orders.

By order and in the name of the Governor of Goa.

Umeshchandra L. Joshi, Under Secretary (Personnel-I).

Porvorim, 19th September, 2014.

Order

No. 7/42/2014-PER/4833

In pursuance to the Government of India, Ministry of Environment Forests and Climate Change, New Delhi Order No. 28011/64/2012-IFS-I(AGMUT) dated 25-08-2014, the Governor of Goa is pleased to relieve Shri G. Kumar, IFS, (AGMUT:1988), Conservator of Forests/OSD to Goa Forest Development Corporation Ltd., from this Administration, with immediate effect to take up this new Development Corporation Ltd from this Administration, with immediate effect to take up his new assignment as Conservator of Forests, Puducherry.

Consequent to the transfer of Shri G. Kumar, IFS, Shri D. N. F. Carvalho, IFS, Conservator of Forests, Wildlife & Eco-Tourism, Panaji shall look after the charge of OSD to Goa Forest Development Corporation Ltd., Panaji in addition to his own duties and until further orders.

By order and in the name of the Governor of Goa.

Umeshchandra L. Joshi, Under Secretary (Personnel-I).

Porvorim, 19th September, 2014.

Order

No. 7/30/2014-PER/4911

The Governor of Goa is pleased to post Shri Naveen S. L., IAS (2012) as Deputy Collector & SDM, Tiswadi with immediate effect and until further orders.

Consequently, Shri Sanjeev Gauns Dessai, Deputy Collector & SDM, Tiswadi is transferred and posted as Deputy Collector, Revenue (North), thereby relieving Shri Vinayak P. Volvoikar, Special Land Acquisition Officer, Public Works Department of the additional charge.

He has joined in this Administration on 03-09-2014 and was awaiting posting. He shall draw the salary during the period from 03-09-14 till joining to the new assignment against one of the vacant post.

By order and in the name of the Governor of Goa.

Yetindra M. Maralkar, Additional Secretary (Personnel).

Porvorim, 25th September, 2014.

Order

No. 6/13/2013-PER/Pt./4748

The ad hoc appointment of the following officers in Senior Scale of Goa Civil Service, is extended further for the period indicated against each or till the appointment is made on regular basis, whichever is earlier:-

Sr. No.	Name of Officer	Ad hoc appointment extended upto
1.	Shri Arvind V. Bugde	01-07-2014 to 30-06-2015
2.	Shri L. S. Pereira	03-07-2014 to 02-07-2015
3.	Shri Ashok Redkar	03-07-2014 to 02-07-2015
4.	Smt. Pushpalata R. Arlekar	03-07-2014 to 02-07-2015
5.	Shri V. P. Dangui	03-07-2014 to 02-07-2015
6.	Shri Dipak M. Bandekar	03-07-2014 to 02-07-2015
7.	Shri Agnelo A. J. Fernandes	24-10-2014 to 23-10-2015

This issues with the approval of GPSC conveyed vide their letter No. COM/II/11/42(3)/2012/901 dated 20-08-2014.

By order and in the name of the Governor of Goa.

Umeshchandra L. Joshi, Under Secretary (Personnel-I).

Porvorim, 11th September, 2014.

Order

No. 15/6/2003-PER(part)Vol 1

Read: Order No. 15/16/2012-PER dated 25-07-2012.

Order No. 15/6/2003-PER(Part) Vol 1 dated 10-10-2013.

The ad hoc promotion of the following officers in the cadre of Mamlatdar/Joint Mamlatdar/ Assistant Director of Civil Supplies is hereby extended for a further period indicated against their names or till the posts are filled on regular basis, whichever is earlier:-

Sr. No.	Name & Designation of the Officer	Ad hoc Promotion extended From To
1.	Shri Pratap Gaunkar	25-07-2014 to 24-07-2015
2.	Shri Shripad Majik	25-07-2014 to 24-07-2015
3.	Shri Nathan Leonard Afonso	25-07-2014 to 24-07-2015
4.	Kum. Deona Pereira	25-07-2014 to 24-07-2015
5.	Shri Rajesh G. Sakhalkar	25-07-2013 to 24-07-2015

This issues with the approval of Goa Public Service Commission conveyed vide their letter No. COM/II/11/42(2)/2012/954 dated 27-08-2014.

By order and in the name of the Governor of Goa.

Umeshchandra L. Joshi, Under Secretary (Personnel-I).

Porvorim, 15th September, 2014.



Department of Public Works

Office of the Principal Chief Engineer

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Order

No. 34/3/2014/PCE-PWD-ADM(II)/143

Read: Order No. 34/3/2014/PCE-PWD-ADM (II)/96 dated 24-07-2014.

Government is pleased to order the posting of Shri Madhu P. Yallurkar, Executive Engineer/ Surveyor of Works (Civil) in Public Works Department who was promoted on ad hoc basis and awaiting posting vide order referred to above as Executive Engineer in Division VI (Roads), PWD, Margao in the existing vacancy, with immediate effect, thereby relieving Shri Rajendra J. Kamat, Executive Engineer of the additional charge of the post of Executive Engineer, Division VI (Roads), PWD, Margao.

He shall draw his pay and allowances as Executive Engineer/Surveyor of Works (Civil) from the date of his joining in the new place of posting.

He shall continue to hold the additional charge of the post of Assistant Engineer, Sub-Division III, Division XVIII (Roads), PWD, Sanguem in addition to his own duties, until further orders.

By order and in the name of the Governor of Goa.

D. J. S. Borker, Principal Chief Engineer & ex officio Additional Secretary (PWD).

Panaji, 16th September, 2014.

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Department of Revenue

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Notification

No. 22/26/2013-RD

Whereas by Government Notification No. 22/26/2013-RD dated 07-10-2013 published in Series II No. 29 of the Official Gazette dated 17-10-2013 and in two local newspapers (1) "Gomantak Times" and (2) "Goa Doot" both dated 07-10-2013, it was notified under Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act"), that the land specified in the Schedule appended to the said Notification (hereinafter referred to as the said land), was needed for public purpose viz. Land acquisition for stationing of one permanent CISF Battalion in Goa at Pernem Village in Pernem Taluka.

And Whereas, the Government of Goa (hereinafter referred to as "the Government"), after considering the report made under sub-section (2) of Section 5-A of the said Act is satisfied that the land specified in the Schedule hereto is needed for the public purpose specified above (hereinafter referred to as "the said land").

Now, Therefore, the Government hereby declares, under the provisions of Section 6 of the said Act that the said land is required for the public purpose specified above.

2. The Government also hereby appoints, under clause (c) of Section 3 of the said Act, the Deputy Collector & SDO, Pernem-Goa to perform the functions of the Collector, North Goa District, Panaji, for all proceedings hereinafter to be taken in respect of the said land.

3. A plan of the said land can be inspected at the office of the Deputy Collector & SDO, Pernem-Goa till the award is made under Section 11.

SCHEDULE

(Description of the said land)

<i>Taluka:</i> Pernem		<i>Village:</i> Pernem
Survey No./ /Sub. Div. No.	Names of the persons believed to be interested	Approx. area in sq. mts.
1	2	3
230/0	Jagannath Balkrishna Deshprabhu. Krishnaji Parshuram Deshprabhu. Narayan Govind Deshpabhu. Chandrakant Nagesh Deshprabhu. Ghanesham Parshuram Deshprabhu. Rajaram Sriram Deshpabhu. <i>Tenant:</i> Krishna Arjun Khautankar. Harishchandra Bhikaji Kauthankar. Mahadev Laxman Varadkar. Vithal Rajaram Bandekar. Sridhar Laxman Kokre.	92,900
250/0	Jagannath Balkrishna Deshprabhu. Krishnaji Parshuram Deshprabhu. Ghanesham Parshuram Deshprabhu. Rajaram Sriram Deshpabhu. Bhalchandra Ramchandra Sinai Dessai. Teja Vijaykumar Porob Sinkre. Deepa Narayan Pai. Geeta Raghunath Deshpabhu. Bharati Shivanand Thali. Umesh Raghunath Deshpabhu. Amita Guruprasad Prabhu. Upendra Raghunath Deshpabhu. <i>Tenant:</i> Arjun Babi Naik. Yeshwant Krishna Parab. Jaganath Sadu Vetalkar. Raghunath Keshav Naik. Yeshwant Vasu Mangji. Suchita Gajanan Tilve.	1,06,625
253/1 part	Raghunath Narayan Deshpabhu. Sitaram Ghanesham Sinai Dessai. Jagannath Balkrishna Deshprabhu. Krishnaji Parshuram Deshpabhu. Rajaram Sriram Deshpabhu. Amrut Nagesh Deshpabhu. Ghanesham Parshuram Deshprabhu.	3795

1	2	3
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Boundaries:

North : S. No. 254/1, 2, S. No. 229,
S. No. 269.

South : S. No. 251/1, S. No. 249/1,
S. No. 231, S. No. 270/1,
S. No. 253/1, 2.

East : S. No. Village boundary of
Virnora Village.

West : S. No. 254/2, S. No. 253/2,
Road.

Total: 2,39,920

By order and in the name of the Governor
of Goa.

Ashutosh Apte, Under Secretary (Revenue-I).
Porvorim, 30th September, 2014.

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Department of Sports and Youth Affairs
Directorate of Sports and Youth Affairs

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Order

No. 8/10/PROMOTION/GPSC/DSYA/2322

On the recommendations of Goa Public Service Commission conveyed vide their letter No. COM/II/11/45(1)/07/713 dated 27-08-2014, Government is pleased to promote Shri S. K. Aldonkar, Asstt. Physical Education Officer to the post of Assistant Director (Physical Education North), Group 'B', Gazetted in the pay scale of ` 9,300-34,800+ Grade Pay ` 4,600/- on regular basis with immediate effect in the Directorate of Sports & Youth Affairs. The pay of the promotee shall be fixed as per rules.

Shri S. K. Aldonkar, Asst. Director (Physical Education North) shall be on probation for a period of two years.

By order and in the name of the Governor
of Goa.

Y. B. Tavde, Director & ex officio Additional
Secretary (Sports & Youth Affairs).

Panaji, 16th September, 2014.